

1 RENE L. VALLADARES  
2 Federal Public Defender  
3 Nevada State Bar No. 11479  
4 AARIN E. KEVORKIAN  
5 Assistant Federal Public Defender  
6 Nevada State Bar No. 14556  
7 411 E. Bonneville, Ste. 250  
8 Las Vegas, Nevada 89101  
9 (702) 388-6577/Phone  
10 (702) 388-6261/Fax  
11 Aarin\_Kevorkian@fd.org

Attorney for Martin Garcia

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA.

Plaintiff,

V.

MARTIN GARCIA,

## Defendant.

Case No. 2:16-cr-00348-RFB-3

**STIPULATION TO CONTINUE  
DEADLINES**  
(First Request)

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich, United States Attorney, and Elizabeth O. White, Assistant United States Attorney, counsel for the United States of America, and Rene L. Valladares, Federal Public Defender, and Aarin E. Kevorkian, Assistant Federal Public Defender, counsel for Martin Garcia, that the following due dates, as ordered by this Court [ECF. No. 93] be extended.

IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that the Defendant's Motion for Reduction of Sentence under *United States v. Davis*, 139 S. Ct. 2319 (2019), which is currently due September 20,

1 2019, and the Government's Response, which is currently due October 4, 2019, be  
2 stayed pending a final decision in *United States v. Dominguez*, No. 14-10268 (9th  
3 Cir.), which is currently scheduled for oral argument on December 10, 2019.  
4 However, in light of the one-year deadline to petition for habeas relief under  
5 *Davis*, any stay must be lifted in sufficient time to allow Mr. Garcia to seek relief  
6 prior to the June 23, 2020, filing deadline, regardless of the status of *Dominguez*.

7 IT IS FURTHER STIPULATED AND AGREED, by and between the  
8 parties, that the Defendant's Motion for Reduction of Sentence under *Davis* be  
9 due on the earlier of 30 days following issuance of a final decision in *Dominguez*,  
10 or June 23, 2020; and the Government's Response be due 14 days after the  
11 Defendant's Motion for Reduction of Sentence is filed.

12 The Stipulation is entered into for the following reasons:

13 1. *United States v. Dominguez* is the leading case in the Ninth Circuit  
14 to address whether actual and attempted Hobbs Act robbery under 18 U.S.C. §  
15 1951 qualify as a crime of violence under the elements clause of 18 U.S.C. §  
16 924(c)(3)(a). Counsel anticipate that a final decision in *Dominguez* may control  
17 the issue raised by the Defendant, and therefore, continuing the deadline for the  
18 Defendant's Motion for Reduction of Sentence will be in the interest of judicial  
19 efficiency.

20 2. Counsel for the Defendant needs additional time to make contact  
21 with the Defendant who is incarcerated by the Bureau of Prisons at FCI  
22 Victorville Medium II, where it has been difficult to arrange any confidential  
23 legal calls with Defendant and to receive legal mail from Defendant. Without the  
24 ability to communicate freely and fully with Defendant, it is, unfortunately, not  
25

1 possible for defense counsel to comply with the deadlines previously set by the  
2 Court in this matter.

3       3. The parties agree to the continuance of the deadlines as set forth  
4 herein.

5       4. This is the first stipulation to continue the deadlines relative to  
6 Defendant's *Davis* motion.

7                     DATED this 17th day of September, 2019.

8                     RENE L. VALLADARES  
9                     Federal Public Defender

                   NICHOLAS A. TRUTANICH  
                   United States Attorney

10                  By: /s/ Aarin E. Kevorkian  
11                  AARIN E. KEVORKIAN  
12                  Assistant Federal Public Defender

                   By: /s/ Elizabeth O. White  
                   ELIZABETH O. WHITE  
                   Assistant United States Attorney

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
MARTIN GARCIA,  
Defendant.

Case No. 2:16-cr-00348-RFB-3

## FINDINGS OF FACT AND ORDER

## FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. A final decision in *United States v. Dominguez*, No. 14-10268 (9th Cir.), may control the issue raised by the Defendant, and therefore, continuing the deadline for the Defendant's Motion for Reduction of Sentence until after a final decision in *Dominguez* issues will be in the interest of judicial efficiency.

2. Counsel for the Defendant needs additional time to make contact with the Defendant who is incarcerated by the Bureau of Prisons at FCI Victorville Medium II, where it has been difficult to arrange confidential legal calls with Defendant and to receive legal mail from Defendant. Without the ability to communicate freely and fully with Defendant, it is not possible for defense counsel to comply with the deadlines previously set by the Court in this matter.

2. The parties agree to the continuance of the deadlines as set forth herein

3. This is the first stipulation to continue the deadlines relative to Defendant's *Davis* motion.

## ORDER

IT IS THEREFORE ORDERED that the Defendant's Motion for Reduction of Sentence is due on the earlier of 30 days following the issuance of a final decision in *United States v. Dominguez*, No. 14-10268 (9th Cir.), or June 23, 2020; and the Government's Response is due 14 days after the Defendant's Motion for Reduction of Sentence is filed.

DATED this 17th day of October, 2019, *nunc pro tunc.*

8

RICHARD F. BOULWARE, II  
UNITED STATES DISTRICT JUDGE